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In re Application of :
SANDERSON, Albert E. et al :
U.S. Application No.: 10/509,115 :
PCT No.: PCT/US03/09702 :
Int. Filing Date: 31 March 2003 :
Priority Date: 01 April 2002 :
Attorney's Docket No.: 09850-016US1 :
For: VARIABLE STROKE/CLEARANCE :
MECHANISM :
:

DECISION

This is a decision on the request to add an inventor in the above-captioned application filed 22 July 2005 pursuant to 37 CFR 1.497(d). The \$130.00 petition fee has been paid

BACKGROUND

On 17 March 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 indicating that the declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. Applicants were given two months to respond with extensions of time available pursuant to 37 CFR 1.136(a).

On 16 June 2005, applicants filed a response which included a one-month extension request and fee, a surcharge fee and an executed declaration.

On 22 June 2005, the DO/EO/US mailed a Notification of Defective Response (Form PCT/DO/EO/916) indicating that the declaration submitted was not in compliance with 37 CFR 1.497(a) and (b) because the second inventor was not listed as an inventor on the international publication.

On 22 July 2005, applicants filed the subject petition which was accompanied by, *inter alia*, the petition fee; a "Statement of Inventor to be Added"; a "Consent of Assignee to Addition of Inventor Under 37 CFR 1.497(d)"; and an assignment.

DISCUSSION

Applicants request to add John Dieckmann as an inventor in the above-captioned application. 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor . . . that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(l); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.

Here, applicants filed a statement by John Dieckmann who requests to be added as an inventor in the above-captioned application. Mr. Dieckmann declares that "[a]ny error in inventorship . . . occurred without deceptive intention on my part." The processing fee of \$130.00 has been paid. Applicants also submitted a document titled "Consent of Assignee to Addition of Inventor Under 37 CFR 1.497(d)" consenting to the change of inventorship in the above-identified application. This document was signed by the President of R. Sanderson Management, Inc., the assignee. The position of President is a position recognized as having the authority to sign for a corporation. See § 324 MPEP.

Therefore, all the requirements of 37 CFR 1.497(d) are complete.

CONCLUSION

Applicants' request under 37 CFR 1.497(d) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 31 March 2003, under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 16 June 2005.

This application is being forwarded to the United States Designated/Elected Office for further processing in accordance with this decision.


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